SAVING LIVES IN A QUIET MANNER

THE UNITED NATIONS SPECIAL RAPPORTEURS AND WORKING GROUPS ON HUMAN RIGHTS

They meet with Presidents and with guerrillas. They sit down to talk with prison wardens as well as with prisoners. Their task is to help protect human rights the world over. They are the United Nations special rapporteurs on human rights.

These specialists—judges, professors, members of parliament—are appointed by the Geneva-based United Nations Commission on Human Rights, the main United Nations body concerned with protecting human rights. They assist the Commission in monitoring human rights in all countries, and act to safeguard those rights.

The rapporteurs provide a means for responding to the tens of thousands of allegations of human rights violations that reach the United Nations every year. They have developed innovative ways to carry out their tasks, and they have a unique role in international human rights protection.

APPEALING FOR CLEMENCY

Some rapporteurs focus on a specific country, while others deal with issues. The country rapporteurs are Felix Ermacora, of Austria, who monitors the human rights situation in Afghanistan; Fernando Volio Jiménez, from Costa Rica, who reports on Chile; José Antonio Pastor Ridruejo, of Spain, who focuses on El Salvador; Reynaldo Galindo Pohl, of El Salvador, whose subject is Iran; and Joseph Voyaume, of Switzerland, who is looking into alleged violations in Romania.

The thematic rapporteurs are Kenyan S. Amos Wako, who reports on summary or arbitrary executions; Peter Kooijmans, of the Netherlands, who investigates torture; Peruvian Enrique Bernales Ballestreros, who examines how mercenaries are used to violate human rights and impede the right of peoples to self-determination; and Angelo Vidal d'Almeida Ribeiro, of Portugal, who deals with religious intolerance and discrimination.

In addition to individuals, the United Nations has also established groups to investigate human rights abuses. A five-member Working Group on Enforced or Involuntary Disappearances was set up in 1980, following the tragic increase in many countries in the number of "disappeared" persons—usually government opponents taken away by security forces or paramilitary groups.

The pioneer group on Human Rights is the six-member Working Group on southern Africa, which was set up by the Commission in 1967 to report on *apartheid*.

The rapporteurs and Working Groups gather information from many sources, including Governments, opposition leaders, human rights organizations, witnesses, and relatives of the alleged victims. They contact the Governments involved, appealing, on humanitarian grounds, for the protection of the human rights of the alleged victim. When invited by a Government, rapporteurs visit countries to hold consultations.

Such consultations are "extremely effective", says Kooijmans, the rapporteur on torture. "Through discussions with government officials, professional organizations and other non-governmental organizations, [I am] in a position to find out where there are still deficiencies in that country's system of law

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enforcement and to make... recommendations for improvement." Kooijmans does not investigate specific allegations. His visits mainly aim at preventing torture.

Every year the rapporteurs and Working Groups submit a report to the Commission on Human Rights and/or the United Nations General Assembly. In the reports they assess the situation in the past 12 months, present the action they took to defend human rights, and make recommendations to the Commission or the Assembly.

A UNIQUE MECHANISM

The Commission decides to appoint a rapporteur only when more informal means have failed. When the Commission is informed of widespread human rights violations in a country, it first examines the question under a confidential procedure, and quietly contacts the Government to resolve the situation. Only when this procedure fails does the Commission decide to go public and appoint a rapporteur.

The rapporteur's chief concern is to improve a situation. Says Galindo Pohl, the representative on Iran: "My philosophy is not to accuse a Government or a group, but to make a Government understand that this is a kind of co-operation by the international community to [release a country from] the hell created by human rights violation."

Rapporteurs do not restrict themselves to receiving complaints, but go out and seek relevant information. This is essential, since the general public is still not fully aware of the possibility of presenting a complaint to the United Nations.

"The special rapporteur is not a judge," says Galindo Pohl. "He is a fact-finding officer, entrusted by the United Nations to perform a task in the interest of the international community. But there is more than fact-finding, because you have to analyse facts, draw your conclusions, make recommendations to the international community."

"The rapporteurs are not activists, in the sense that some non-governmental organizations could be, and must be," says Volio Jiménez, the rapporteur on Chile. "They are promoters of human rights protection, but above particular interests, in the spirit of the United Nations."

The rapporteurs' methods of operation more often resemble those of human rights organizations than those traditionally associated with the United Nations. The rapporteurs can and do act immediately, report publicly, and seek out information by hearing witnesses and carrying out on-the-spot visits. In their visits, the rapporteurs are always accompanied by staff members of the United Nations Centre for Human Rights.

Bernales Ballestreros, the rapporteur on mercenaries, thinks "it is very important to have a rapporteur to study on the spot a case denounced as a violation of human rights. The rapporteur is the eyes, the ears and the hands of the Commission". He adds that the goal is a humanitarian one: "to help the State, the people, comply with the norms of international law".

Although not all States respond to the communications of the rapporteurs, only a very few have refused as a matter of principle to have anything to do with them.

After examining their reports, the Commission on Human Rights and the General Assembly usually make recommendations. These bodies have, variously, asked for more co-operation from the Governments involved, in particular for permission for rapporteurs to visit their country to study the situation first-hand; urged States to guarantee the freedoms they are charged with having allowed to be violated; appealed for an end to conflicts, which contribute to such violations, and for a resumption of negotiations towards an agreement; and asked the countries concerned to facilitate the full enjoyment of human rights in their territory. In many instances, the rapporteurs have been asked to continue to keep the specific situation under review.

UNOFFICIAL MEDIATORS...

Working between opposing parties, rapporteurs may assume additional roles. Says Ermacora, the rapporteur on Afghanistan: "The rapporteur is not a mediator, but certainly there are elements of mediation, such as requesting the Government to collaborate with the International Committee of the Red Cross, or helping the Red Cross to carry out its tasks. Sometimes I have... applied for the release of political prisoners, advocated for refugees, or brought messages from one Government to another. But I am mainly there to assess a situation."

This mediating role may become broader in situations of conflict, as it is in the case in El Salvador. "I see everybody, including the guerrillas," says Pastor Ridruejo. "You have to see everybody. I have informal contacts, to create a climate of trust with the Government and the guerrillas.

"I have put pressure on the guerrillas," he says. "I said to them, 'Don't kill the prisoners from the army, don't conduct executions, don't kidnap mayors.' The guerrillas listen."

Rapporteurs may also act as legal advisers. Says Pastor Ridruejo: "There was a draft bill presented to the [Legislative] Assembly [of El Salvador]. I said that the draft was not in conformity with United Nations treaties, and the draft was changed."

Like all rapporteurs, Pastor Ridruejo has an intimate knowledge of the situation in "his" country. In his latest visit to El Salvador in October 1989, he met with virtually all political forces in the country. He had talks with President Alfredo Cristiani, ministers, generals and security officials, as well as with leaders of the opposition parties. He interviewed representatives of the guerrilla movement, the Farabundo Martí National Liberation Front (FMLN). He met with members of human rights organizations, peasant movements and trade unions, and witnesses of alleged human rights violations.

...SEEKING OBJECTIVITY...

To fulfil their mandate, rapporteurs try to obtain the widest possible picture. "We visit both the palace of the Government and the meanest slum," says Bernales Ballestreros.

"I visited [Chile] four times, interviewing hundreds of people, from 8 a.m. to 2 a.m. the following day," says Volio Jiménez. "All kinds of people, from different social groups."

During his latest visit to Chile in October 1988, Volio Jiménez met some 140 people, representing a wide spectrum of Chilean life, including the Minister for Foreign Affairs and other government officials, union leaders, members of human rights organizations, prisoners and other persons who had asked to express their grievances to him. In his talks with the Chilean authorities, he constantly raised human rights issues.

The information thus gathered is carefully examined. "You must evaluate witnesses, scrutinize the sources to see whether they are reliable," Ermacora says. "It is a very personal approach. We do not put all the information we receive in our report, but only after a very careful study of that information.

"You need to be balanced," Galindo Pohl says. "I receive information, and consider it allegations. I don't say, 'These are the facts.' I cannot refuse *a priori* any allegations. I have to examine them, to corroborate them with various sources, with Government sources. But I put them in the report as allegations. At the end, I formulate my conclusions."

Gathering information on the spot often involves considerable danger. "We put our lives at risk every day in El Salvador," says Pastor Ridruejo. "It is very dangerous. We prefer not to have the protection of the Government or of the guerrillas. We only have the symbolic protection of the United Nations."

Ermacora confirms the dangers of the job. "In 1988 in Afghanistan we had to fly by helicopter for 600 kilometres at an altitude of not more than five metres, so as not to be shot down. I have seen

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very heavy attacks on Kabul. All the missions are dangerous. There are bombings, and you are nearby."

Ermacora has visited "his" region various times, the last time in January 1990, when he went to Pakistan and Afghanistan. In Pakistan he met with representatives of humanitarian organizations and visited several hospitals, where he interviewed war-wounded Afghans. He also met with Pakistan government officials, with representatives of the Afghan opposition, and with members of humanitarian organizations.

In Afghanistan he was received by the President, the Ministers of Foreign Affairs, Interior, Defence and Repatriates and other cabinet members. In Kabul he visited three hospitals, and talked with members of humanitarian organizations.

"It is my hope," Ermacora says, "that it will very soon be possible for me to report that further monitoring of the human rights situation in Afghanistan . . . is no longer needed."

. . . AND RESULTS

How effective are the rapporteurs? "You can't expect spectacular results," says Galindo Pohl. "But it is important to put pressure on Governments. They resist, but then slowly start to bow, and at the end they want to put their house in good order. It is not convenient to have, year after year, international exposure of the same problem."

The rapporteur exerts a political and moral pressure, Galindo Pohl says. "I think that without this pressure things would be much worse. It is productive."

"Governments cannot violate human rights with impunity," Pastor Ridruejo says. "They must explain their behaviour to the Commission. This fact of having to explain themselves internationally is a way of putting pressure on them."

"I personally think that my reports have changed the situation for the better," Ermacora says of his work on Afghanistan. "It has been said that my reports have contributed in a certain way to the decision of the Soviets to leave.

"Today, Governments are sensitive to public opinion—discussions in United Nations bodies, information in newspapers and on television," he continues. "They cannot just neglect it. But it takes a certain amount of time.

"Our effectiveness depends on the political bodies of the United Nations," Ermacora adds. "If these bodies respect our recommendations, our report, then there is a certain political impact in our work."

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"Rapporteurs receive cables and letters from non-governmental organizations, relatives, victims," says Elissavet Stamatopoulou-Robbins, head of the New York office of the United Nations Centre for Human Rights. "They can contact Governments and ask them to explain their position.

"Thus Governments know that the United Nations has been seized with a case involving human rights," she says. "And this is very important. Governments . . . know that cases and situations will be mentioned in a report—and those reports are public.

"Lives of individuals have been saved, executions have been prevented, people have been freed," Stamatopoulou-Robbins says. "This is on the individual level. On another level, Governments have adopted legislation on the recommendations of rapporteurs and the Commission.

"We have been receiving many more complaints—by the thousands—since we established these procedures," she adds. "People know about the procedures and use them. In 1980, some 20 non-

governmental organizations participated in the work of the Commission; in 1989 there were about 130. Non-governmental organizations—the organized public opinion—think it is something worth going into, to protect human rights.

"Governments know that we know. Sometimes they don't answer at all; sometimes they say, 'We don't know that person'; sometimes they say that legal procedure was followed. But they know that the rapporteur will mention the situation. . . . The report is public: it is a way to apply pressure, it is a way of saving lives in a quiet manner."

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